

## WHAT IS THE EQUAL CREDIT OPPORTUNITY ACT?

The Equal Credit Opportunity Act (ECOA) is the federal law which, among other things, says that everyone has the right to apply for credit without fear of discrimination on the basis of sex, marital status, race, color, religion, national origin, age, reliance on income from public assistance, or because you may have exercised rights under the Consumer Protection laws.

## WHO IS SUBJECT TO ECOA?

All banks, savings and loans, credit unions, finance companies, department stores, credit card issuers, car and appliance dealers, and others who regularly participate in credit decisions must comply with the ECOA.

## WHEN YOU BORROW

The ECOA does not entitle you to credit whenever you want it. You must still pass the creditor's test which indicates your ability and willingness to repay debt.

What the ECOA does say is that a creditor must apply these tests without discrimination and should not discourage you from applying for credit on the basis of the prohibited factors.

Usually, you may not be asked for your sex, race, color, religion, or national origin when the creditor takes your application. However, the creditor must ask about these characteristics in applications for residential real estate credit, although you are not required to answer. The idea is to build a history of facts that will help enforce the law against discrimination in mortgage loans. The information cannot be used in evaluating your application.

## Married, Unmarried, Separated...

On an application for separate credit, a creditor may not ask about your marital status except when the credit is to be secured by property in which your spouse has a legal interest. The creditor may then use only the terms "married," "unmarried," or "separated."

If you are a married woman, you may use your birth-given first and surnames in applying for credit.

In the case of a couple, either member may get separate credit provided he or she is creditworthy. When this happens, finance charges and loan ceilings are to be determined individually, not on the combined credit outstanding.

Information about your spouse may be requested and used only when . . .

- \* your spouse will be permitted to use the credit;
- \* your spouse will be liable for repayment;
- \* your spouse's income or alimony, support, or maintenance payments will be relied on for repayment; or
- \* your spouse has a legal interest in property involved.

A creditor may not ask about a woman's birth control practices or childbearing capabilities or intentions. A creditor may not assume because of a woman's age that she may stop work to have a baby.

## Income. . . .

A creditor may ask and consider to what extent your income is affected by obligations to pay alimony, child support, or maintenance.

A creditor may ask to what extent you are relying on alimony, child support, or maintenance to repay credit provided the creditor first informs you that it is not necessary to list such income if you won't use it to make repayment.

A creditor must consider part-time or public assistance income in an evaluation, but the creditor may look into the probability that this income will continue.

## Changed Circumstances. . .

A creditor may not require you to reapply, alter the terms, or terminate an open-end account solely because:

- \* you change your name
- \* change your marital status
- \* reach a certain age, or
- \* retire.

## Credit Reporting . . .

When a creditor reports to credit bureaus the report must identify any accounts used by both spouses or on which both are liable. This is so that a credit history can be prepared for each spouse individually.

## Age . . .

A creditor may ask your age to be sure you have reached the legal age to enter into contracts.

A creditor who uses a credit-scoring system may include your age if you are 62 or over only to favor your score and the system used must meet specific standards of reliability.

A creditor who relies on judgment to evaluate your application may consider age to determine how long you probably will continue to work and at what level of income.

A creditor may not refuse or terminate credit when credit insurance is not available because of your age.

## APPROVED OR DENIED

Within 30 days after your application is completed, the creditor must notify you whether or not it has been approved.

If your application is denied, the creditor must give you, in writing:

- \* a statement of the action that has been taken;
- \* a statement of your rights under the ECOA;
- \* the name and address of the Federal agency enforcing compliance; and
- \* the reason for the action that has been taken or notice of your right to request the reason within 60 days. If you want the reason in writing, your request must be in writing.

## SPECIAL PURPOSE CREDIT

It is not a violation of the ECOA if a creditor refuses to extend credit to you solely because you don't qualify for a special program designed to meet the needs of a particular group.

## ERRORS

A creditor has not committed a violation if clearly the creditor has established and is maintaining suitable procedures but fails to comply with a provision of the ECOA because of a mechanical, electronic, or clerical error.

## CONSUMER REMEDIES

If you have questions about the creditor's compliance with the ECOA, get in touch with the Federal agency whose name has been given to you by the creditor.

If you think you have been discriminated against under the ECOA, you may file suit in court against the creditor, who can be held liable for actual damages you have suffered and for punitive damages up to \$10,000.

The Federal Trade Commission- <http://www.ftc.gov> - enforces the federal credit law given in this brochure and provides consumers with free information.

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The Indiana Department of Financial Institutions, Division of Consumer Credit has many other credit related brochures available, such as:

- Answers to Credit Problems
- Applying for Credit
- At Home Shopping Rights
- Bankruptcy Facts
- Buried in Debt
- Car Financing Scams
- Charge Card Fraud
- Choosing A Credit Card
- Co-Signing
- Credit and Divorce
- Credit and Older Consumers
- Deep in Debt?
- Equal Credit Opportunity and Women
- Fair Credit Reporting
- Fair Debt Collection
- Gold Cards
- Hang up on Fraud
- High Rate Mortgages
- Home Equity Credit Lines
- How to Avoid Bankruptcy
- Indiana Uniform Consumer Credit Code
- Look Before you Lease
- Mortgage Loans
- Repossession
- Reverse Mortgage Loans
- Rule of 78s – What is it?
- Scoring for Credit
- Shopping for Credit
- Using Credit Cards
- Variable Rate Credit
- What is a Budget?
- What is the DFI?

Call our toll-free number or write to the address on the cover for a copy of any of the brochures listed or for further consumer credit information. You can also access information at our web site on the Internet: <http://www.dfi.state.in.us>, then click on Consumer Credit.



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